GOVERNMENT OF MYSORE.

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT. (LABOUR).

Labour Dispute —Industrial Dispute between the Workmen and the Management of Sri Siddeswara Textile Mills (P) Ltd., Davangere.

Award of the Labour Court, Hubli Published.

Read the following papers :—

(1) Letter No. 1542/67-68, dated 28th October 1967 from Shri Syed Aziz uddin Ahmed Presiding Officer, Labour Court Hubli.

IN THE LABOUR COURT HUBLI

Dated 28th October 1967.

Reference (ID (LC) H, No. 80 of 1966.

Present :

Sri Syed Aziuddin Ahmed, M.A., B.L., *Presiding Officer.*

Between

The Workmen of Sri Siddeswara Textile Mills (Private) Ltd., Davangere represented by the Secretary, Sri Siddeshwara Textile Employees Association, Nittavalli Road, Davangere. ... *I Party.*

And

The Management of Sri Siddeshwara Textile Mills (P) Ltd., Davangere. ... *II Party.*

This is reference U/s 10 (1) (c) of the Industrial Disputes Act, 1947 made by the Government of Mysore in their Order No. LMA 359 LLD 66 dated 15th December 1966. The point of dispute referred for adjudication :—

> "Is the management of Sri Siddeswara Textile Mills (P) Limited, Davangere, justified in dismissing Sri Maqbul Sab, T. No. 39 R. F Sider with effect from 22nd January 1966. If not is the worker entitled to reinstatement with back wages and continuity of service ?

2. The cause of the aggrieved workmen has been sponsored and espoused by Sri Siddeshwara Textile Employees Association, Devangere represented by its Secretary. Sri M. C. Narasimhan, General Secretary of the Karnataka Pradesh Trade Union Congress appeared for the I Party while Sri C. P. Chandra Dass, Assistant Law Officer of the South India Mill-owners Association, Coimbatore appeared for the second. In response to the notices issued by the Court, the parties filed their pleadings, dated 31st May 1967 and 13th June 1967 respectively.

3. The sum and substance of the Claim Ssatement is that Sri Maqbul, the delinquent workmen had put in many years of service under the II Party. He was served with a charge-sheet dated 18th January 1966 after a show cause notice dated 14th January 1966 was issued to him. He was accused of riotous or disorderly behaviour during the working hours etc., and after a so-called enquiry, he was dismissed from service with effect from 22nd January 1966. The delinquent workmen was an active member of the I Party union and his dismissal was influenced by this factor. He is not guilty of the charge levelled against him. The Management had acted *mala fide* and the order is viciated by victimisation and thus the enquiry was opposed to the principles of natural justice.

4. The II Party in its Counter Statement denied knowledge of the fact that the delinquent workman was a member of the I Party union It maintained that even if the workman was such an active member, it could not give him a carte blanche to do anything and everything on that score. The delirquent was dismissed solely for the misconduct committed by him and not for any other reason. The point of dispute specified in the order of reference was adopted as issue in the case.

5. When the case was taken up for hearing on 19th June 1967 at Davargere camp, Sri Siddramappa, President of the I Party union filed an application seeking adjournment. As adjournment could not be granted at the mere askance, I heard the arguments of Sri B. C. Chandra Das Assistant Law Officer of the Management, who was present in the Court. He declined to lead oral evidence and stated that he would rely on the domestic enquiry. He filed the connected papers and the entire set was marked as Ex. M 1 series. The case was adjourned to hear the representative of the I Party. When the case was taken up for hearing again at

Davangere Camp on 20th September 1967 Sri M. C. Narasimhan, General Secretary, Karnatak Pradesh Trade Union Congress appeared for the I Party and Sri C. P. Chandra Das appeared for the second. Sri M. C. Narasimhan examined one witness in proof of the allegation that the management had victimised the workman. The representative of the II Party had no objection in examining witness on this point. The II Party also examined one witness in rebuttal and both the parties were heard afresh.

FINDINGS

Ex. M-1(a) is the show-cause notice dated 14th January 1966. It runs thus :—

> "It is reported by maistries that you have severely threatened, beaten and used abusive language to the workers by name Basavaraj, Devendrappa and Rudrappa, for no fault of them, inside the mills premises. You behaved arrogantly by giving impertinent answers when questioned by maistries and supervisor.
>
> This act of yours constitute the misconduct of, Riotous or disorderly behaviour during working hours of the establishment or any act subversive of discipline' and 'threatening or intimidating any employee of the works' under Standing Orders 15 (3) (c) (h) & (M)." etc.

Ex. M-1 (c) is his reply to the show cause notice Ex. M1 (a) In his repely the delinquent workman denied the charages levelled against him. Ex. M-1 (d) is the chargesheet. It is in the manner of Ex. M-1 (a). The management latter appointed Sri L. Shivappa, Labour Welfare Officer to conduct the domestic enqniry. Tne Enquiry Officer recorded the statements of four witnesses. From the proceedings Ex. M-1 (c) it transpires tha the II Party examined first their witnesses in the presence of tht delinquent workman and allowed him all opportunities to crosse examine them. Ex. M-1 (j) is the statement of Maqbul Sab, the delinquent workman, wherein he has stated that as he was an executive committee member false allegations have been levelled against him. He has further stated that he had no witnesses on his behalf. Ex. M-1 (k) is the findings of the Enquiry Officer. After perusing the proceedings of the domestic enquiry, the management passed the dismissal order Ex. M-1 (1) dismissing him from service from 18th January 1966. As there could be no

retrospective order of dismissal, that the management passed the second order of dismissal Ex. M-1 (m) dated 22nd January 1966 dismissing him from service forthwith.

7. Now, I shall refer to the oral evidence in the case. Maqbul Sab W. W. 1 is none other than the delinquent workmen. He deposed that he is an executive committee member of the Sri Siddeshwar Textile Employees Association, Davangere (S. T. E. E. A. There are two unions functioning among the workmen. S.T.E.E.A. is an outside union. He does not remember the name of the other union. The other union is a union sponsored by the Maistries of the II Party. Maistry Hussen Sab belongs to the Maistries Union, which is a pro-management union. He had collected the subscription of the members of his union outside the mill premisees whereas the maistries collected the subsriptions of the members of the union inside the mill Hussen Sab asked him to pay the subscriptions to his union but he refused. Thereupon, he threatened to remove him from the job. In rebuttal, Hussan Sab, M. W. 1 deposed that he has not organised any union in the mill nor had he collected subscription from any worker. He did not ask Maqbul Sab to pay him subscription. There is a union organised by the maistries in the II Party Mill. He is not a member of any union. From a persusal of the proceedings of the domestic enquiry, it is found that the enquiry has been fairly and properly conducted. It does not suffer from any flaw. Sri Narasimham, the learned representative of the I Party made much of the fact that the statements of the management witnesses suffer from contradictions. The witnesses have stated that the incident took place at night meaning thereby the night-shift and yet they have stated that the incident took place at about 11 O'clock in the night. This could not be the hour of the night shift. This cannot be considered a material contradiction. In ordinary parlance 11 O'clock in the night could well be described as night. The I Party has filed a representation of the workmen to the II Party asking then to allow him to have an observer at the time of the domestic enquiry. It is not clear whether this representation was made to the Enquiry Officer. In 1960 (2) LLJ page 288 and in 1961 (2) LLJ page 417 there are observations to the effect that a workmen against whom an enquiry is being held by the management, has no right to be represented at such an enquiry by a representat ve of his union. Though the employer, in his discretion, can and may allow him to be so represented and it cannot be said that in any enquiry against a workmen natural justice

demands that he should be represented by a representative of the union. In this view of the matter, it cannot be said that the management committed any grave error. The deposition of Maqbul Sab W. W. 1 cannot be believed. Ordinarilly, no member of one union would ask the member of another rival union to pay him subscription. This appear to be a story invented to suit the purpose. This does not establish any victimisation on the part of the management. At best, it was a quarrel inter so between the workmen of the mill with which the management would have nothing to do. Besides, Hussen Sab has categorically denied that he had asked subscription from Maqbul Sab. From the statements of the management witnesses it has been clearly established that aggrieved workman had threatened and assuelted Devendrappa, Basavaraj and Rudrappa. Hussan Sab has stated that he had seen the beating. Perhaps in order to prejudice his testimony, the story was invented that he had asked for subscription from Maqbul Sab. In 1958 (1) LLJ page 58 Thcir Lordships of the Supreme Court have observed :

> " In case of dismissal on misconduct the Tribunal does not however, act as a court of appeal and substitute its own judgment for that of the management. It will interfere
>
> (1) when there is a want of good faith,
>
> (2) when there is victimisation or unfair labour practice,
>
> (3) when the management has been guilty of basic error or violation of a principle of natural justice and
>
> (4) when on the materials the findings is completely baseless or perverse."

The present enquiry does not suffer from any of these defects. On an over-all consideration of the entire material on record, the point of dispute is decided in favour of the II Party.

AWARD

The Management of Sri Siddeshwar Textile Mills, (P) Ltd, Davangere was justified in dismissing Sri Maqbul Sab, T. No. 39, R. F. Sider with effect from 22nd January 1966. He is not entitled to reinststement with back wages and continuity of service. The parties shall bear their own costs.

SYED AZIZUDDIN AHMED,
Presiding Officer,
Labour Court, Hubli.

Place: Hubli
Dated: 28 10-1967.

ANNEXURE

Reference (ID) (LCH) No. 80 of 1966.

Witnesses examined for I Party

W.W.-1 Maqbul S/o Alisahab

Witnesses examined for II Party

M.W.-1 Hussainsab S/o Khadarsab

Documents marked for I Party

Exhibits :

W-1 Letter dated 19th January 1966 from W. W. 1 to Labour Officer.

Documents marked for the II Party

M-1 File of domestic enquiry

M-1 (a) .Show cause notice dated 14th January 1966

M-1 (b) Application dated 15th January 1966 by W. W. 1 to II Party

M-1 (c) Letter dated 17th January 1966 from W. W. 1 to II Party

M-1 (d) Charge-Sheet dated 18th January 1966

M-1 (e) Proceedings of enquiry held on 20th January 1966

M-1 (f) Statement of Devendrappa

M-1 (g) do Basavaraj

M-1 (h) do Rudrappa

M-1 (i) do Hussainsab

M-1 (j) do Makbulsab

M-1 (k) Finding of the enquiry officer

M-1 (l) Order dated 22nd January 1966 of II Party

M-1 (m) Dismissal order dated 22nd January 1966 of II Pary

M–1 (n) Letter dated 3rd Feburay 66 from I Party to II Party

M–1 (o) Letter dated 11th Feburary 66 from A.L.C. Mysore to II Party

M–1 (p) Letter dated 22nd Feburary 66 from II Party to A.L.C. Mysore.

M-1 (q) Particulars from personnel record of W.W. 1.

M–2 Standing Orders of the Mills dated 29th April 1965.

SYED AZIZUDDIN AHMED
Presiding Officer,
Labour Court, Hubli

Place : Hubli
Date : 28–10–1967

ORDER.

Bangalore, dated 4th November 1967.

S. O. 2166.—WHEREAS by State Government Order No. FCL 399 LLD 66, dated 15th December 1966, the Industrial Dispute between the Workmen and the Management of Sri Siddeswara Textile Mills (P) Ltd., Davanegere was referred to the Labour Court, Hubli for adjudication.

AND WHEREAS, the Labour Court has submitted to the State Government its award in respect of the said Industrial Dispute;

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. FCL 399 LLD 66.]

By Order and in the name of the Governor of Mysore,

1416 G. G. PUROHIT, *Under Secy.*